

(i) Charitable contributions under section 170;

(ii) Dividends to policyholders under section 811(b);

(iii) Certain nonparticipating contracts under section 809(d)(5);

(iv) Group life insurance contracts and group accident and health insurance contracts under section 809(d)(6);

(v) Tax-exempt interest, dividends, etc., under section 809(d)(8); and

(vi) Any operations loss carryback to the taxable year under section 812.

(2) In applying the first sentence of section 170(b)(2) as contained in section 170 or, in the case of taxable years beginning after December 31, 1969, section 170(d)(2)(B) as contained in section 170A, any excess of the charitable contributions made by a life insurance company in a taxable year over the amount deductible in such year under the limitation contained in subparagraph (1) of this paragraph, shall be reduced to the extent that such excess:

(i) Reduces life insurance company taxable income (computed without regard to section 802(b)(3)) for the purpose of determining the offsets referred to in section 812(b)(2); and

(ii) Increases an operations loss carryover under section 812 for a succeeding taxable year.

(3) The application of the rules provided in section 809(e)(3) and this paragraph may be illustrated by the following example:

Example. Assume that life insurance company P is organized on January 1, 1958, and has a loss from operations for that year in the amount of \$100,000 which is an operations loss carryover to 1959. In 1959, company P has a gain from operations and tax base (computed without regard to section 802(b)(3)) of \$100,000 before the allowance of a deduction for a \$5,000 charitable contribution made in 1959 and before the application of the operations loss carryover from 1958. Under section 170(b)(2), the operations loss carryover from 1958 is first applied to eliminate the \$100,000 gain from operations and tax base in 1959 and the \$5,000 charitable contribution carryover would (except for the limitation contained in this paragraph) become a charitable contribution carryover to 1960. However, for the purpose of computing the offsets referred to in section 812(b)(2), the \$5,000 charitable contribution is applied to reduce the gain from operations and tax base for 1959 to \$95,000 before the application of the operations carryover from 1958. Since only \$95,000 of the \$100,000 loss from operations in

1958 is an offset for 1959, the remaining \$5,000 becomes an operations loss carryover to 1960. Accordingly, under the limitation contained in this paragraph, the charitable contributions carryover provided under the second sentence of section 170(b)(2) is eliminated.

(d) *Amortizable bond premium.* No deduction shall be allowed under section 171 for the amortization of bond premiums since a special deduction for such premiums is specifically taken into account under section 818(b).

(e) *Net operating loss deduction.* No deduction shall be allowed under section 172 since section 812 allows an "operations loss deduction".

(f) *Partially tax-exempt interest.* No deduction shall be allowed under section 242 for partially tax-exempt interest since section 809(d)(8) allows a deduction for such interest.

(g) *Dividends received.* No deduction shall be allowed under sections 243, 244, and 245 for dividends received since section 809(d)(8) allows a deduction for such dividends.

[T.D. 6535, 26 FR 529, Jan. 20, 1961, as amended by T.D. 7207, 37 FR 20797, Oct. 5, 1972]

§ 1.809-7 Limitation on certain deductions.

(a) *In general.* Section 809(f)(1) limits the deductions under section 809(d)(3), (5), and (6), relating to deductions for dividends to policyholders, certain nonparticipating contracts, and group life, accident, and health insurance contracts, respectively. This limitation provides that the amount of such deductions shall not exceed the sum of (1) the amount (if any) by which the gain from operations for the taxable year (determined without regard to such deductions) exceeds the taxpayer's taxable investment income for such year, plus (2) \$250,000.

(b) *Application of limitation.* Section 809(f)(2) provides a priority system for applying the limitation contained in section 809(f)(1) and paragraph (a) of this section. Under this priority system, the limitation shall be applied in the following order:

(1) For taxable years beginning before January 1, 1962:

(i) First to the amount of the deduction under section 809(d)(6) (relating to group life, accident, and health insurance);

(ii) Then to the amount of the deduction under section 809(d)(5) (relating to certain nonparticipating contracts); and

(iii) Finally to the amount of the deduction under section 809(d)(3) (relating to dividends to policyholders).

(2) For taxable years beginning after December 31, 1961, the limitation shall be applied in the following order:

(i) First to the amount of the deduction under section 809(d)(3);

(ii) Then to the amount of the deduction under section 809(d)(6); and

(iii) Finally to the amount of the deduction under section 809(d)(5).

Thus, for taxable years beginning after December 31, 1961, the limitation and priority system would operate first to disallow a deduction under section 809(d)(5), then a deduction under section 809(d)(6), and finally a deduction under section 809(d)(3). For purposes of applying the 50 percent limitation contained in section 809(d)(6) with respect to a taxable year beginning after December 31, 1961, the amount of the deductions for taxable years beginning

before January 1, 1962, shall be determined by applying the priority system contained in subparagraph (1) of this paragraph.

(c) *Illustration of principles.* The operation of the limitation and priority system provided by section 809(f) and this section may be illustrated by the following examples:

Example 1. Assume the following facts with respect to M, a life insurance company, for the taxable year 1958:

Gain from operations computed without regard to the deductions under sec. 809(d)(3), (5), and (6)	\$100,000,000
Taxable investment income	83,000,000
Tentative deduction for group life, accident, and health insurance under sec. 809(d)(6)	4,000,000
Tentative deduction for certain nonparticipating contracts under sec. 809(d)(5)	6,000,000
Tentative deduction for dividends to policyholders under sec. 809(d)(3)	10,000,000

In order to determine the limitation on the deductions under section 809(d)(3), (5), and (6), M would make up the following schedule:

(1) Statutory amount provided under sec. 809(f)(1)	\$250,000
(2) Gain from operations computed without regard to the deductions under sec. 809(d)(3), (5), and (6)	\$100,000,000
(3) Taxable investment income	83,000,000
(4) Excess of item (2) over item (3)	17,000,000
(5) Limitation on deductions under sec. 809(d)(3), (5), and (6) (item (1) plus item (4))	17,250,000
Since the total tentative deductions under section 809(d)(3), (5), and (6) (\$20,000,000) exceeds the limitation on such deductions (\$17,250,000), M would make up the following schedule to determine the application of the priority system:	
(6) Maximum possible deduction under sec. 809(d)(3), (5), and (6) (item (5))	\$17,250,000
(7) Deduction for group life, accident, and health insurance under sec. 809(d)(6) (not in excess of item (6))	4,000,000
(8) Maximum possible deduction under sec. 809(d)(5) (item (6) less item (7))	13,250,000
(9) Deduction for certain nonparticipating contracts under sec. 809(d)(5) (not in excess of item (8))	6,000,000
(10) Maximum possible deduction under sec. 809(d)(3) (item (8) less item (9))	7,250,000
(11) Deduction for dividends to policyholders under sec. 809(d)(3) (not in excess of item (10))	7,250,000

Thus, as a result of the application of the limitation and priority system for the taxable year 1958, M shall be allowed a deduction of \$4,000,000 under section 809(d)(6), \$6,000,000 under section 809(d)(5), and only \$7,250,000 of the \$10,000,000 tentative deduction under section 809(d)(3).

Example 2. The facts are the same as in example 1, except that the taxable year is 1962. Since the total tentative deductions under

section 809(d)(3), (5), and (6) (\$20,000,000) exceeds the limitation on such deductions (\$17,250,000), M would make up the following schedule to determine the application of the priority system:

(1) Maximum possible deductions under sec. 809(d)(3), (5), and (6) (item (5) in example 1)	\$17,250,000
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(2) Deduction for dividends to policyholders under sec. 809(d)(3) (not in excess of item (1))	10,000,000
(3) Maximum possible deduction under sec. 809(d)(6) (item (1) less item (2))	7,250,000
(4) Deduction for certain accident, health, and group life insurance under sec. 809(d)(6) (not in excess of item (3))	4,000,000
(5) Maximum possible deduction under sec. 809(d)(5) (item (4) less item (5))	3,250,000
(6) Deduction for certain nonparticipating contracts under sec. 809(d)(5) (not in excess of item (5))	3,250,000

Thus, as a result of the application of the limitation and priority system for the taxable year 1962, M shall be allowed a deduction of \$10,000,000 under section 809(d)(3), \$4,000,000 under section 809(d)(6), and only \$3,250,000 of the \$6,000,000 tentative deduction under section 809(d)(5).

[T.D. 6535, 26 FR 530, Jan. 20, 1961, as amended by T.D. 6886, 31 FR 8688, June 23, 1966]

§ 1.809-8 Limitation on deductions for certain mutualization distributions.

(a) *Deduction not to reduce taxable investment income.* Section 809(g)(1) limits the deduction under section 809(d)(11) for certain mutualization distributions. This limitation provides that such deduction shall not exceed the amount (if any) by which the gain from operations for the taxable year, computed without regard to such deduction (but after the application of the limitation contained in section 809(f) and § 1.809-7), exceeds the taxpayer's taxable investment income for such year.

(b) *Deduction not to reduce tax below that imposed by 1957 law.* Section 809(g)(2) further limits the deduction under section 809(d)(11). Under section 809(g)(2), such deduction shall be allowed only to the extent that it (after the application of all other deductions) does not reduce the tax imposed by section 802(a)(1) for the taxable year below the amount of tax which would have been imposed for such taxable year if the law in effect for 1957 applied for such taxable year. If such deduction is claimed for 1958 (or 1959), the company shall attach to its return a schedule showing what its tax for 1958 (or 1959) would have been had such tax been

computed under the law in effect for 1957.

(c) *Application of section 815.* Section 809(g)(3) provides that any portion of a distribution which is allowed as a deduction under section 809(d)(11) shall not be treated as a distribution to shareholders for purposes of section 815; except that in the case of any distributions made in 1959, such portion shall be treated as a distribution with respect to which a reduction is required under section 815(e)(2)(B) (relating to adjustment in allocation ratio for certain distributions after December 31, 1958).

[T.D. 6535, 26 FR 530, Jan. 20, 1961]

§ 1.809-9 Computation of the differential earnings rate and the recomputed differential earnings rate.

(a) *In general.* Neither the differential earnings rate under section 809(c) nor the recomputed differential earnings rate that is used in computing the recomputed differential earnings amount under section 809(f)(3) may be less than zero.

(b) *Definitions—*(1) *Recomputed differential earnings amount.* The recomputed differential earnings amount, with respect to any taxable year, is the amount equal to the product of—

(i) The life insurance company's average equity base for the taxable year; multiplied by

(ii) The recomputed differential earnings rate for that taxable year.

(2) *Recomputed differential earnings rate.* The recomputed differential earnings rate for any taxable year equals the excess of—

(i) The imputed earnings rate for the taxable year; over

(ii) The average mutual earning rate for the calendar year in which the taxable year begins.

(c) *Effective date.* The regulations are effective for all taxable years beginning after December 31, 1986.

[T.D. 8499, 58 FR 64899, Dec. 10, 1993]

§ 1.809-10 Computation of equity base.

(a) *In general.* For purposes of section 809, the equity base of a life insurance company includes the amount of any asset valuation reserve and the amount of any interest maintenance reserve.